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Attorneys for Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

HOWARD RIPLEY,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of
Social Security,

Defendant.

CIVIL NO. 2:95-CV-01375-GGH

STIPULATION AND ORDER OF DISMISSAL

IT IS HEREBY STIPULATED by the undersigned for the respective parties, subject to the approval of the Court, that this action be dismissed pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure. On December 15, 1995, prior to the filing of an answer, the parties stipulated to remand this matter to the Commissioner pursuant to sentence six of 42 U.S.C. § 405(g) (CR 7). The parties stipulated to remand for evaluation under the Stipulation and Order of Settlement in Basso v. Chater, No. 94-2651 (N.D.Cal. November 14, 1995), a Ninth Circuit-wide class action in which the Social Security Administration agreed to reevaluate the eligibility of any individual then residing in the Ninth Circuit who received a determination from the agency that his eligibility for Supplemental Security Income benefits would be reduced, suspended or terminated on or after May 26, 1994 (or who

1 had a live claim on that date) because the Agency determined that his plan for achieving self-support
2 could not be extended beyond 48 months. The parties agreed that Plaintiff was a member of the Basso
3 class.

4 The Supreme Court differentiated the two types of remands in Shalala v. Schaefer, 509 U.S. 292,
5 113 S. Ct. 2625, 125 L.Ed.2d 239 (1993). Sentence four remands end the litigation; sentence six
6 remands do not. Sentence six of section 405(g) provides that the court retains jurisdiction over the
7 matter during the pendency of remand proceedings. Shalala v. Schaefer, 509 U.S. at 297, 113 S.Ct. at
8 2629. Here, however, the Court apparently closed the file. On remand, an administrative law judge
9 issued a favorable decision. See Declaration of Paul D. Gould and exhibits. Thereafter, the Agency
10 restored Plaintiff's benefits. Plaintiff died in 1999. See Declaration of Paul D. Gould.

11 There is no dispute as to the basis of the remand. Inasmuch as the purpose of the remand, i.e.,
12 remand for reconsideration of the termination of benefits, has been accomplished, Plaintiff's benefits
13 were restored and Plaintiff has long since deceased, the parties agree that this matter should be
14 dismissed. Each party shall bear its own costs.

15 Respectfully submitted,

16 Dated: March 19, 2009

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19 By /s/ Donna W. Anderson
DONNA W. ANDERSON
Special Assistant United States Attorney
Attorneys for Defendant
U.S. Social Security Administration

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21 DATED: March 19, 2009

22 By /s/ John V. Johnson
JOHN V. JOHNSON
Attorney for Plaintiff
23 (As authorized via email)

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STIP. FOR DISMISSAL
No. 2:95-CV-01375-GGH

1 PURSUANT TO STIPULATION, IT IS SO ORDERED:

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3 DATED: March 25, 2009

/s/ Gregory G. Hollows

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5 ripley.dism

6 GREGORY G. HOLLOWS
7 United States Magistrate Judge
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